



2009 ASSEMBLY BILL 137

March 9, 2009 - Introduced by Representatives MOLEPSKE JR., SOLETSKI, MILROY, WOOD, SCHNEIDER, BERCEAU, HILGENBERG, COLON, BLACK, POCAN, VRUWINK, GRIGSBY and ZEPNICK, cosponsored by Senators TAYLOR, SCHULTZ and RISSER. Referred to Committee on Personal Privacy.

1 **AN ACT to create** 343.045 of the statutes; **relating to:** the issuance of motor
2 vehicle operator's licenses and identification cards by the Department of
3 Transportation.

Analysis by the Legislative Reference Bureau

The federal REAL ID Act of 2005 (REAL ID Act) prohibits a federal agency from accepting, for any "official purpose," a motor vehicle operator's license or identification card issued by a state unless the state satisfies requirements contained in the REAL ID Act. An "official purpose" includes accessing federal facilities, boarding federally regulated commercial aircraft, and any other purpose identified by the federal Department of Homeland Security (Homeland Security). While the provisions of the REAL ID Act became effective on May 11, 2008, Homeland Security regulations promulgated under the REAL ID Act gave states additional time to implement the provisions of the REAL ID Act. The 2007 biennial budget bill, 2007 Wisconsin Act 20 (Act 20), contained provisions incorporating into state law requirements contained in the REAL ID Act. However, most of these provisions are subject to a contingent effective date; the provisions do not become effective until the date specified in a notice provided by the Department of Transportation (DOT) after DOT has determined that it is ready to fully implement the REAL ID Act. When these provisions become effective, they will require DOT to significantly modify its process for issuing operator's licenses and identification cards.

Under this bill, DOT may not adopt any procedure or requirement for the issuance of operator's licenses or identification cards necessary under the REAL ID

ASSEMBLY BILL 137

Act for federal agencies to recognize for an “official purpose” operator’s licenses and identification cards issued by this state unless all of the following apply:

1. DOT ensures that any database, record facility, or computer system associated with the procedure or requirement includes reasonable security measures and safeguards to protect the privacy of applicants, licensees, and cardholders and to protect against unauthorized disclosure of department data.

2. DOT ensures that any personnel involved with the procedure or requirement are adequately screened and trained to protect the privacy of applicants, licensees, and cardholders and to protect against unauthorized disclosure of DOT data.

3. The procedure or requirement does not place an unreasonable cost or record-keeping burden on operator’s license or identification card applicants.

In addition, DOT may not encumber or expend any moneys from its state funds appropriation for driver licensing for the purpose of complying with provisions of the REAL ID Act. However, DOT may encumber and expend federal funds received by the state that are specifically allocated for the implementation of the REAL ID Act.

Under the bill, the attorney general may, upon request of DOT and approval of the governor, challenge the legality or constitutionality of the REAL ID Act.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.045 of the statutes is created to read:

2 **343.045 Implementation of certain provisions of federal law. (1)** In this
3 section, “REAL ID Act” means the federal REAL ID Act of 2005, P.L. 109-13.

4 **(2)** Subject to sub. (3) (a), and notwithstanding any other provision of this
5 chapter, the department may not adopt any procedure or requirement for the
6 issuance of operator’s licenses or identification cards for the purpose of complying
7 with provisions of the REAL ID Act unless all of the following apply:

8 (a) The department ensures that any database, record facility, or computer
9 system associated with the procedure or requirement includes reasonable security
10 measures and safeguards to protect the privacy of applicants, licensees, and
11 cardholders and to protect against unauthorized disclosure of department data.

